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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,978	07/02/2001	Fred A. Bower III	BEA920010009US1	9953
49056	7590	11/28/2005		
LIEBERMAN & BRANDSDORFER, LLC 802 STILL CREEK LANE GAITHERSBURG, MD 20878			EXAMINER VO, LILIAN	
			ART UNIT	PAPER NUMBER
			2195	
DATE MAILED: 11/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,978

Applicant(s)

BOWER, FRED A.

Examiner

Lilian Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1 – 26 are pending.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/26/05 has been entered.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
4. Claims 1 - 26 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter.
5. **Claims 1 – 9 and 25 – 26** are directed to method steps, which can be practiced mentally in conjunction with pen and paper, therefore they are directed to non-statutory subject matter. Specifically, as claimed, it is uncertain what performs each of the claimed method steps. Moreover, each of the claimed steps, inter alia, receiving, launching, placing, setting, resetting, storing, maintaining, can be practiced mentally in conjunctions with pen and paper. The claimed steps do not define a machine or computer implemented process [see MPEP 2106]. Therefore,

the claimed invention is directed to non-statutory subject matter. (The examiner suggests applicant to change "method" to "computer implemented method" in the preamble to overcome the outstanding 35 U.S.C. 101 rejection).

6. **Claims 19 - 24** are not limited to tangible embodiments. In view of Applicant's disclosure, specification page 3, lines 10 – 11, the medium is not limited to tangible embodiments, instead it is being defined as signal bearing medium for incapable of being touched or perceived absent the tangible medium through which they are conveyed. As such, the claim is not limited to statutory subject matter and is therefore non-statutory. To overcome this type of 101 rejection the claims need to be amended to include only the physical computer media.

7. **Claims 10 - 18** are not tangibly embodied in a manner so as to be executable because the only hardware is in an intended use statement. Although the operations defined in these claims may include hardware, the claims are not tangibly embodied because it is the intent of the execution of the system and not the system itself that includes such hardware.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 - 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al. (US Pat. Application Publication US 2004/0133609, hereinafter Moore) in view of Logue et al. (US 6,647,421, hereinafter Logue).

10. Regarding **claim 1**, More discloses a method for spawning a lower priority task from a higher priority task comprising:

(a) receiving a message from a client/remote server within system firmware (page 4, paragraph 79 and 81, page 5, paragraphs 88 - 89: receiving a request from a client. Fig 4); and

(b) launching a lower priority task in response to receipt of said message (page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatcher dispatches the request to the proper request handler to perform service such as I/O operations).

Moore discloses that request can be originated from a remote server and not from the remote administrator. Nevertheless, Logue discloses the receiving of the request is from the remote administrator (col. 6, lines 15 - 19: receive request from remote administrator). It would have been obvious for an ordinary skill in the art, at the time the invention was made, to incorporate Logue's teaching with Moore by servicing requests from remote administrator in addition to client so that services can be provides to a variety of source within the network as needed.

11. Regarding **claim 2**, Moore discloses the step of launching said lower priority task includes an agent (fig. 4, page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatch the request to the proper request handler to perform service such as I/O operations).

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12. Regarding **claim 3**, Moore discloses the step of receiving the message from the remote source includes a dispatcher (page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatcher dispatches the request to the proper request handler to perform service such as I/O operations).

13. Regarding **claim 4**, Moore discloses the dispatcher placing the request/message in a data structure (page 4, paragraph 80, page 5, paragraph 86- 89: the data set is registered in MCAT server and kept all relevant information associated with the data set for each call/request).

14. Regarding **claim 5**, Moore did not clearly disclose the step that the dispatcher sets the flag for signaling the receipt of the message. However, Moore discloses that the dispatcher listening for incoming requests and dispatches the requests to the proper request handlers (page 4, paragraph 79). It would have been obvious for an ordinary skill in the art, to incorporate Moore's system with a step of setting a flag for signaling the receipt of request by the dispatcher when receiving a request that forward it to a particular request handler (process agent) to be processed because Moore has different type of agents to handle different level of request.

15. Regarding **claim 6**, Moore discloses the step of launching the lower priority task includes an agent, the agent reading the data structure (fig. 4, page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatcher dispatches the request to the proper request handler to perform service such as I/O operations. Page 5, paragraph 86- 89: the data set is registered in MCAT server and kept all relevant information associated with the data set for each call/request).

With respect to the agent receiving the flag, this concept is considered well known in the art. Furthermore, it would have been obvious for an ordinary skill in the art, to incorporate Moore's system with the step of setting a flag for signaling the receipt of request by the dispatcher to a particular request handler (agent) when receiving a request since certain type of request will be handled by the appropriate request handler (process agent).

16. Regarding **claim 7**, Moore did not clearly disclose the step that the agent resets the flag associates with the receipt message. However, Moore discloses that the dispatcher listening for incoming requests and dispatches the requests to the proper request handlers (page 4, paragraph 79). It would have been obvious for an ordinary skill in the art, to incorporate Moore's system with the step of resetting the flag by the request handler (agent) after finish processing the request because different request handler will process a particular type of request.

17. Regarding **claim 8**, Moore discloses the step of launching said lower priority task includes responding to said message (page 4, paragraph 79: the dispatcher is also responsible for returning the results to clients).

18. Regarding **claim 9**, Moore discloses the higher priority task includes maintaining a level of operation (page 4, paragraph 79: the dispatcher listens for incoming requests and dispatches the requests to the proper request handler).

19. Regarding **claim 10**, Moore discloses a computer system comprising:

a higher priority task (page 4, paragraph 79: the dispatcher listens for incoming requests and dispatches the requests to the proper request handler);

a remote server within system firmware (page 4, paragraph 79 and 81, page 5, paragraphs 88 - 89: receiving a request from a client/remote server. Fig 4);

a message manager to receive a message from the client/server (page 4, paragraphs 79, 81: the dispatcher listens for incoming requests and dispatches the requests to the proper request handler. Page 5, paragraphs 88 - 89: receiving a request from a client/remote server. Fig 4); and

a task manager to launch a lower priority task in response to receipt of said message (page 4, paragraph 79, page 5, paragraphs 81, 86 - 89: request handler processes the request) .

Moore discloses that request can be originated from a remote server and not from the remote administrator. Nevertheless, Logue discloses the receiving of the request is from the remote administrator (col. 6, lines 15 - 19: receive request from remote administrator). It would have been obvious for an ordinary skill in the art, at the time the invention was made, to incorporate Logue's teaching with Moore by servicing requests from remote administrator in addition to client so that services can be provides to a variety of source within the network as needed.

20. Regarding **claim 11**, Moore discloses the message manager is a dispatcher (page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatcher dispatches the request to the proper request handler to perform service such as I/O operations).

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21. Regarding **claim 12**, Moore discloses the task manager is an agent (fig. 4, page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatch the request to the proper request handler to perform service such as I/O operations).

22. **Claims 13 – 18** are rejected on the same ground as stated in claims 4 - 9 above.

23. **Claims 19 and 20** are rejected on the same ground as stated in claims 1 above.

24. **Claims 21 - 24** are rejected on the same ground as stated in claims 4 - 9 above.

25. Regarding **claim 25**, Moore discloses a method for spawning a lower priority task comprising:

receiving a message from a client/remote server (page 4, paragraph 79 and 81, page 5, paragraphs 88 - 89: receiving a request from a client. Fig 4);

storing the request/message in a data structure (page 4, paragraph 80, page 5, paragraph 86- 89: the data set is registered in MCAT server and kept all relevant information associated with the data set for each call/request); and

launching a lower priority task in response to said message (page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatcher dispatches the request to the proper request handler to perform service such as I/O operations).

Moore discloses that request can be originated from a remote server. He did not clearly disclose the message is received from the remote administrator. Nevertheless, Logue discloses the receiving of the request is from the remote administrator (col. 6, lines 15 – 19: receive

request from remote administrator). It would have been obvious for an ordinary skill in the art, at the time the invention was made, to incorporate Logue's teaching with Moore by servicing requests from remote administrator in addition to client so that services can be provides to a variety of source within the network as needed.

With respect to the step of setting a flag, Moore did not clearly disclose the step that setting a flag associates with the receiving of a message/request. However, Moore discloses that the dispatcher listening for incoming requests and dispatches the requests to the proper request handlers (page 4, paragraph 79). It would have been obvious for an ordinary skill in the art, to incorporate Moore's system with the step of setting a flag for signaling the receipt of request by the dispatcher when receiving a request that forward it to a particular request handler (process agent) to be processed because Moore has different type of agents to handle different level of request.

26. **Claim 26** is rejected on the same ground as stated in claim 9 above.

Response to Arguments

27. Applicant's arguments with respect to claims 1, 10 and 19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Agee et al. (US 6,621,851) disclosed step of setting and resetting the flag associates with the receiving message.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Monday - Thursday, 7:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lilian Vo
Examiner
Art Unit 2195

lv
November 16, 2005


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